

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

BRYAN JEFFERY SANDERSON,)
)
Petitioner,)
)
v.) Case No.: 5:20-cv-00008-ACA-HNJ
)
WARDEN DEBORAH TONEY, et)
al.,)
)
Respondents.)

MEMORANDUM OPINION

On July 17, 2020, the magistrate judge entered a report and recommendation, recommending that the court deny as time-barred Petitioner Bryan Jeffery Sanderson's 28 U.S.C. § 2254 petition for writ of habeas corpus. (Doc. 7). The magistrate judge further recommended that the court deny a certificate of appealability. (*Id.*).

On July 30, 2020, Mr. Sanderson filed timely objections to the magistrate judge's report and recommendation. (Doc. 8).

First, Mr. Sanderson argues that his petition is not time-barred, pursuant to *Martinez v. Ryan*, 566 U.S. 1 (2012). (Doc. 8 at ¶¶ 3–5, 9–10). However, as the magistrate judge correctly stated, “[t]he *Martinez* rule explicitly relates to excusing a procedural default of ineffective-trial-counsel claims [during an initial-review collateral proceeding] and does not apply to AEDPA's statute of limitations or the

tolling of that period.’’’ (Doc. 7 at 8) (quoting *Arthur v. Thomas*, 739 F.3d 611, 630 (11th Cir. 2014)). Accordingly, the court **OVERRULES** Mr. Sanderson’s objection that *Martinez* saves his claims.

Second, Mr. Sanderson objects that the magistrate judge did not examine the merits of the claims in his habeas petition. (Doc. 8 at ¶¶ 1–2, 7–8). Because the magistrate judge correctly found that Mr. Sanderson’s petition is not timely, the court need not address the merits of Mr. Sanderson’s petition. Therefore, the court **OVERRULES** Mr. Sanderson’s objection that the magistrate did not rule on the merits of his claim.

Having carefully reviewed *de novo* the record in this case, including the magistrate judge’s report and Mr. Sanderson’s objections, the court **ADOPTS** the magistrate judge’s report and **ACCEPTS** his recommendation. The court **OVERRULES** Mr. Sanderson’s objections and **DISMISSES** the petition for writ of habeas corpus **WITH PREJUDICE**. The court **DENIES** a certificate of appealability.

The court will enter a separate final judgment.

DONE and **ORDERED** this August 14, 2020.



ANNEMARIE CARNEY AXON
UNITED STATES DISTRICT JUDGE